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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
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11 CLYDE DAVID CARTER,

12 Plaintiff,

13 v.

14 B. COX,

15 Defendant.  
16

No. 2:20-CV-1322-KJM-DMC-P

ORDER

17 Plaintiff, a prisoner proceeding pro se, brings this civil rights action under 42  
18 U.S.C. § 1983.

19 This action is stayed pending resolution of related criminal proceedings in the  
20 Lassen County Superior Court. See ECF No. 20. Pursuant to the Court's order staying these  
21 proceedings, Defendant was required to file periodic status reports concerning the state court  
22 proceedings. See id. Defendant's most recent status report indicates that a discovery hearing is  
23 scheduled to take place in state court on December 8, 2023. See ECF No. 34. Defendant will be  
24 required to file further reports advising the Court as to the status of proceedings in state court.  
25 Pending further order of this Court, this action remains stayed.

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1 During the pendency of the stay of these proceedings, which remains in effect,  
2 Defendant filed a motion to dismiss for lack of prosecution based on Plaintiff's failure to file a  
3 notice of change of address following mail sent by Defendant's counsel being returned as  
4 undeliverable. See ECF No. 31. Because Defendant's motion was filed during the pendency of  
5 the stay, it was improperly filed and will be stricken as such.

6 As to Plaintiff's failure to notify counsel of a change of address, the Court's docket  
7 also reflects that mail sent by the Court has been returned as undeliverable since February 21,  
8 2023. While it is Plaintiff's obligation to notify the Court and all parties of a change of address,  
9 and while it appears Plaintiff has failed to do so, it also appears, as reflected in the various status  
10 reports filed by Defendant, that Plaintiff may have been transferred to and from various  
11 institutions to attend hearings in the Lassen County Superior Court. In the interest of justice, the  
12 Court will direct defense counsel to make best efforts to ascertain Plaintiff's last known address  
13 and to advise the Court of same in the next status report.

14 Accordingly, IT IS HEREBY ORDERED as follows:

- 15 1. Pursuant to the Court's prior order, this action remains STAYED.
- 16 2. Defendant's motion to dismiss, ECF No. 31, improperly filed during the  
17 pendency of the stay of these proceedings, is STRICKEN.
- 18 3. Defendant shall file a report on the status of Lassen County Superior Court  
19 proceedings within 30 days of the date of this order, such status report to include a declaration  
20 from defense counsel as to efforts to ascertain Plaintiff's last known address.
- 21 4. Defendant shall file a further status report every 60 days thereafter until  
22 such time as the Court lifts the stay of proceedings.

23  
24 Dated: January 23, 2024

  
DENNIS M. COTA  
UNITED STATES MAGISTRATE JUDGE